

CA2φN
XC 18
- 80P65

Government
Publications



STANDING PROCEDURAL AFFAIRS COMMITTEE

DEPOSITORY LIBRARY MATERIAL

PROPOSALS FOR A NEW COMMITTEE SYSTEM

Tabled in the Legislative Assembly
by
Mike Breagh, MPP, Chairman
Fourth Session, 31st Parliament
29 Elizabeth II

Digitized by the Internet Archive
in 2022 with funding from
University of Toronto



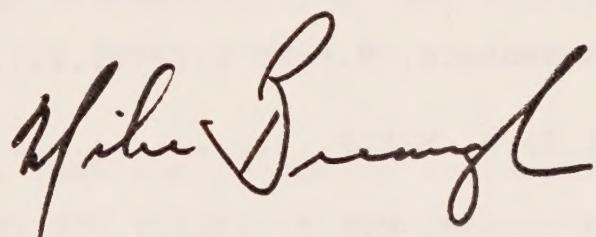
<https://archive.org/details/31761114667660>

CA20N
XC 18
- 80 P.65

The Honourable John E. Stokes, M.P.P.
Speaker of the Legislative Assembly

Sir,

Your Standing Procedural Affairs Committee has the honour to present its report, "Proposals for a New Committee System", and commends it to the House.



Mike Breaugh, M.P.P.
Chairman

THE STANDING PROCEDURAL AFFAIRS COMMITTEE

THE LEGISLATIVE ASSEMBLY OF ONTARIO

FOURTH SESSION: THIRTY-FIRST PARLIAMENT

MEMBERS

Mike Breaugh, M.P.P., Chairman	Oshawa
Brian Charlton, M.P.P.	Hamilton Mountain
Monty Davidson, M.P.P.	Cambridge
Remo Mancini, M.P.P.	Essex South
David Rotenberg, M.P.P.	Wilson Heights
Russell Rowe, M.P.P.	Northumberland
Richard Ruston, M.P.P.	Essex North
Norman Sterling, M.P.P.	Carleton-Grenville

Graham White, Clerk
John Eichmanis, Research Officer
Mary Scraggs, Secretary

TO ALL MEMBERS OF THE LEGISLATIVE ASSEMBLY:

This report on the Legislature's committees represents nearly two years of review and debate by the Procedural Affairs Committee.

The recommendations represent the committee's thinking in a general sense, though likely every Member of the Committee disagrees with particular recommendations. The Committee felt, however, that it was more important to involve the Members of the Legislature in the re-evaluation of the committee system than to reach total agreement within the Committee. Thus we felt that the time had come to put forward to the Legislature a set of coherent proposals for improving the committee system.

In this way, all Members will have an opportunity to consider our recommendations and to debate them in the House. After Members have reacted to the report, steps can be taken to refine and to rethink the recommendations, and finally to implement whatever changes the Members wish to make to our committee system.

Members should realize that the proposals contained in this report are interrelated and therefore should not be addressed individually, but as a whole.

Reform of the committee system has been on the Legislature's agenda since the Fourth Report of the Camp Commission was issued in 1975; it can no longer be relegated to the bottom of that agenda. The Committee thus looks forward to hearing the Members' views on the proposals set out in this report.

Mike Breaugh, MPP
Chairman
Standing Procedural Affairs
Committee

TABLE OF CONTENTS

PREFACE

INTRODUCTION	1
WHAT ARE THE PURPOSES OF COMMITTEES?	4
A NEW PROPOSED COMMITTEE SYSTEM	7
Size	7
Substitution	8
Policy Field Committees	9
Legislation	11
Estimates	12
Policy Review and Special Studies	15
Specialist Committees	17
Select Committees	19
Staffing	19
Terms of Reference and Committee Powers	21
Subcommittees	22

P R E F A C E

In 1976, the Morrow Committee began its recommendations for changing the Ontario committee system with the observation that "expansion of the role and importance of committees is logical and necessary". This report follows this lead in recognizing that periodic reassessments are needed to enhance the effectiveness of the committee system. To an extent, however, this report is premised on a belief not found in the Morrow reports: the realization that we are rapidly reaching the limits to which committee work can expand. In short, our aim is improving the quality of committee work, not increasing its quantity.

Principally this entails the reorganization of the way committees are presently structured, so that, for example, the work currently done by the policy field committees may be handled in a more rational and effective manner. Under our proposals, committees would conduct their business in much the same fashion as they do at present, and, with few exceptions, would be engaged in the same work that they do now. The difference would be the elimination of many of the serious inefficiencies which characterize the current policy field committees. The changes we propose are less far-reaching than might first appear, but they should contribute significantly to the improvement of the committee system in the sense that although committees would do the same work they do now, they would be able to do it more effectively and more efficiently.

INTRODUCTION

During the past decade, the Ontario Legislature has undergone continuous review and reform, aimed principally at improving its effectiveness and the work of its Members. Concern with parliamentary effectiveness, in Ontario and in other Westminster-style democracies, derives essentially from a problem common to all parliamentarians. As Mr. George Cunningham, M.P. (UK) has said:

That problem can be expressed this way: It is how you can take the elected representatives of the people, who are necessarily amateurs and not experts, and somehow organize things so that they are able to control and scrutinize the activities of modern government which are so vast and so complex.

Significantly, Mr. Cunningham's remarks were addressed to a recent seminar of the Commonwealth Parliamentary Association held in Toronto on the subject of parliamentary committees. In Ontario and elsewhere, legislators are increasingly looking to committee reform as a means of fostering more effective legislatures. This report is aimed at streamlining and strengthening the committees of the Ontario Legislature.

In its 1978 Report on committees, the Select Committee on Procedure of the British House of Commons premised its recommendations on the view that "a new balance must be struck" between the Executive and the Legislature. In Ontario this need was explicitly recognized with the establishment of the Commission on the Legislature (the Camp Commission) in 1972. The Commission's mandate to propose means of strengthening the Legislature and the role of the private Member paralleled the work of the earlier Committee on Government Productivity, which concentrated on the Executive.

The Fourth Report of the Camp Commission (September, 1975) set out recommendations calling for a far-reaching restructuring of the Ontario committee system. By and large, few of the Commission's suggestions for changes have been implemented; the same may be said of the major proposals of the Select Committee on the Fourth and Fifth Reports of the Commission on the Legislature (the Morrow Committee).

The Committee system of the Ontario Legislature has hardly been static, however. It has, indeed, changed enormously in recent years. At the most obvious level, the workload borne by committees has increased tremendously, but more significantly, the ways in which committees operate as well as the circumstances in which they find themselves have changed greatly over the past decade. Important changes have occurred even since the final report of the Commission on the Legislature (some of which, of course, came in response to the Commission's proposals). To take only a few illustrations, the Library research unit has provided invaluable staff assistance to several committees; the Board of Internal Economy has developed a clear process for the funding of committees; referral of annual reports to committee under Standing Order 33(b) has, in effect, given the committees open terms of reference; and many committees are chaired by Members of opposition parties.

These changes have for the most part been unplanned and evolutionary, and it is for this reason that a full-scale evaluation of the Ontario committee is required. This task has fallen to the Standing Procedural Affairs Committee.

In reviewing possible changes to the committee system, the Committee has been struck by the fact that the Ontario Legislature is by no means alone in looking to an improved committee system as a means of strengthening Parliament. The Business Council on National Issues and the Royal Commission on Financial Management and Accountability ("The Lambert Report") have both recently recommended fundamental reforms of the committee system of the House of Commons as essential for effective parliamentary work. The federal Government's White Paper, The Reform of Parliament, also proposed some fairly radical changes aimed at strengthening committees and enhancing their independence. In Britain, the Procedure Committee published a major report on committees in 1978; this report formed the basis of a sweeping reform of parliamentary committees carried out last summer by the Conservative Government. In addition, reviews of committees are underway in several Canadian provinces.

The Committee has taken these various reports touching on committee reform into account. In addition, the Committee travelled to Washington, D.C. to examine first-hand the Congressional committee

system; it discussed in both formal and informal settings, the operation of other jurisdictions' committees with officials and Members of other legislatures; it sought the views of Members of the Ontario Legislature through meetings, discussion papers on subcommittees and estimates, and in a questionnaire on the estimates process.

WHAT ARE THE PURPOSES OF COMMITTEES ?

An evaluation of the Ontario committee system logically begins with a clear understanding of the purposes committees serve. Committees are, of course, not created to serve their own ends, but to further the work of the Legislature. However, to observe that committees exist to enable the House to conduct its business more effectively and efficiently is not particularly helpful without a recognition of the purposes of the Legislature itself.

In Westminster-style parliamentary democracies, Legislatures essentially serve five broad purposes:

- 1) To represent the people. Collectively Members serve the public interest, while individually they represent their constituents in the Legislature.
- 2) To recognize the Government's rightful duty to govern by sustaining it in office and by authorizing its program.
- 3) To provide the opposition with the opportunity of presenting itself as an alternative Government.
- 4) To subject Government to public scrutiny with respect to its policies and conduct of administration.
- 5) To serve as a forum for public debate, both among the parties, and between the parties and the wider public.

However, Legislatures have a clear constitutional limitation on their power. As the federal Conservative Government's White Paper, Reform of Parliament, points out - "The House of Commons does not govern". The power to govern clearly resides with the Cabinet.

In the context of its overall purposes and rules, the Legislature performs specific tasks:

- passing legislation
- scrutinizing the activities of the Executive
- maintaining accountability for public funds
- redressing grievances

As the role and power of modern governments have expanded, legislatures have been hard pressed to assert their constitutional responsibilities. The business before parliament - and this is certainly true in Ontario - has grown so burdensome and time-consuming, that only by delegating a substantial proportion of it to committees

can parliaments hope to accomplish their work.

Committees do much more than simply permit the more efficient dispatch of parliamentary business. Not only has the sheer volume of business increased, but its character has changed substantially as well. The Legislature, in response to government involvement in social, cultural and economic affairs requiring complex legislation or policies, has been forced to deal with exceeding complicated issues. Many of these issues necessitate the kind of detailed review that cannot in most instances be adequately performed by a large assembly, which tends to be more suitable for broad debate of policy principles. Committees are, of course, ideal vehicles for such detailed study and specialized debate. The work of the Select Committee on Ontario Hydro Affairs and of the committees which considered the Residential Tenancies Bill illustrate the point.

The activities of such committees also highlight a further advantage of committees. They provide Members with the opportunity of seeking advice and information from expert witnesses and from public servants. Of at least equal importance, committees enable the public to become actively involved in the parliamentary process through public hearings, both at Queen's Park and throughout the province. This fostering of a dialogue between the governors and the governed is of absolutely fundamental importance.

Committee work permits, indeed encourages, Members to familiarize themselves with the specific details of issues and to develop specialized policy interests. The expertise derived in this way not only benefits individual Members but also serves to produce more informed debates in the House.

Thus, if the House does not govern, its effectiveness in fulfilling its tasks, as the Conservative White Paper recognized, depends on its ability to "poke and pry without hindrance into activities of those who do". In other words, "Parliamentarians should be able to effectively put the question "why" and "why not" ". This approach needs to be incorporated in any proposed committee system. Again, in the words of the White Paper, it is 'assumed that committees will conduct investigations embarrassing to the government of the day ...', and that the object of its proposed reforms was to improve the accountability of government'. The White Paper proposed to achieve

this by giving committees more investigative initiative, by providing them with more staff resources and by stabilizing their membership by reducing committee size.

Finally, any restructuring the Ontario committee system must bear in mind the observations made by the British Select Committee on Procedure on the primary of the House; first, 'Committees are not ... an end in themselves, but are a means to secure greater surveillance of the Executive by Parliament'. In making its proposals to restructure the British committee system, the Committee took 'great care to weigh the advantages of a rational and effective committee system against the need to retain the Chamber as the focus of the political and legislative work of Parliament, and to protect, and if possible, enhance, the opportunities of the individual Member to influence the decisions of the House". Similar concerns have guided the deliberations of this committee.

These, then, are the principles on which the following report and recommendations are based.

A NEW PROPOSED COMMITTEE SYSTEM

The Camp Commission began its analysis of the committee system with an appraisal of the reasons for the success of select committees. The characteristics identified by the Commission as contributing to the effectiveness of select committees appear to this Committee to represent sound principles on which to base our entire committee system:

- 1) The scheduling of work in a way that fosters the concentration of Members' efforts on the question at hand
- 2) The high level of staff assistance
- 3) The specialization on a single subject
- 4) The permanent membership
- 5) The relatively small size of committees

Size

Two points are self-evident about the size of committees. First, virtually everyone agrees with the view that the present 16-Member committees are too large. It does not make sense that one committee should tie up nearly one-fifth of the Private Members available to sit on committees (excluding the Cabinet, the Speaker and his deputies, and Party Leaders, this is fewer than 100). Aside from this, smaller committees are clearly more effective and Members seem to prefer them. Significantly, the new British "Select" Committees (which we would call standing) are limited to 9 to 11 Members in a House of more than six hundred. The December, 1979 federal White Paper is only the most recent in a long series of reports urging reductions in committee size (to a maximum of eleven).

The second key point about committee size is that it is inextricably related to other important elements of the committee system. The need for substitution would, for example, be greatly reduced were smaller committees the norm. Similarly, smaller committees would permit greater specialization.

Recommendation 1: The Membership of committees should be reduced to a maximum of 10.

Substitution

The substitution problem is one of the most difficult faced by the Committee. Members do fall ill or are taken elsewhere by their duties and thus require substitutes; wholesale substitution is also inevitable when a single committee engages in widely different tasks - often concurrently. Members who recall the situation in the 1960's, when virtually no substitution was permitted, emphasize the difficulties this caused, particularly for parties with relatively few Private Members.

Some figures may illustrate the dimensions of the problem. In the Third Session of the Thirty-First Parliament (1979), the average attendance at the four policy field committees was approximately 9.8 Members (including Chairman) out of 16; of these, approximately 2.5 Members were substitutes - that is, more than 1 Member in 4 at a typical committee meeting is a substitute.

No one disputes the serious problems occasioned by substitution: lack of continuity, repetition of previously covered material for new Members, and confusion bordering on disrespect for members of the public following committee proceedings. The process has been likened to a trial in which the judge is different every day.

Two considerations suggest that the 'necessary evil' of substitution may be less necessary than evil. First, select committees, which normally meet in periods when the House is not sitting, are usually not substitutable, yet rarely has this caused any serious difficulty. Secondly, the principal need for substitution arises from the practice of appointing Members to committees before any work is referred to them; clearly, the need for substitution would be substantially reduced were a more sensible approach taken, namely, referring business to a committee and then appointing to it the appropriate Members. To a large degree, the practice of substitution is a reflection of the structural inefficiency of the existing policy field committees, so that the changes proposed elsewhere in this report should do away with much of the pressure for substitution. As a minimum, the Committee is of the view that committees engaged in special studies or considering legislation should not be substitutable. Of course, Members could always be substituted by House order should the need arise. For periods during which the House does not sit, each party might nominate one or two official alternates. ... 9

Recommendation 2: No substitution should be permitted for committees conducting special studies or for committees considering legislation.

Policy Field Committees

The policy field committees represent a good idea that simply has not worked well in practice. In a legislature of this size, a system of two dozen or more specialist committees is just not feasible, so that some grouping of ministries and policy areas into broad committee mandates is necessary. However, although the grouping of ministries into the four policy secretariats seems logical and effective at the executive level, legislative committees are not called upon to perform the co-ordination and overview functions of the secretariats. There is therefore less need for committees to be structured in a way which parallels the organization of the executive and for all business falling within a policy field to be referred to a single committee.

Thus the apparent advantage of the current system is a limited one. The disadvantages, by contrast, are very substantial. The policy field committees are desperately overworked; at any specific time they will likely have before them several sets of estimates, legislation (public and private) and special studies (chiefly annual reports referred by Standing Order 33b). No institution can do everything well, so that it is hardly surprising that a single committee cannot perform all these tasks adequately. In addition, the over-loading of so few committees often leads to severe scheduling bottlenecks, which frustrate Members on both sides of the House.

The policy field committees are in fact little more than empty vessels which are filled, via substitution, with the appropriate Members for each item of business. They might just as well be labelled "Committee A", "Committee B", and so on. To cite only two recent illustrations of how meaningless the 'policy field' aspect of these committees has become, Bill 19, which sought to amalgamate the Ministries of Colleges and Universities and of Education was considered by the Administration of Justice Committee and the estimates of the Resources Development Secretariat were considered in the Social Development Committee.

In sum, the Committee sees little reason to perpetuate the policy field committees in their present form. Since each task currently performed by these committees - estimates, legislation and special studies - calls for a different approach, the Committee proposes a different structure for each. In essence we suggest that the policy field committees be retained, but only for the review of policy, that legislation be considered in special legislation committees, and that estimates and financial matters be dealt with by an altogether new committee. The following sections set out our specific proposals.

Legislation

The reality of the present situation is that whenever a bill is referred to standing committee, the membership of the committee is changed to permit particular Members to deal with particular bills. It is the Committee's view that this essentially ad hoc approach be rationalized and recommends that a new committee be struck to consider each bill (or package of bills) referred by the House and that the committee be disbanded on completion of its review of the bill. Select committees on specific bills have been employed before in the Ontario Legislature to good advantage. The Camp Commission proposed the creation of just such ad hoc bills committees as a general principle, and of course this is the approach which the British have employed for years (in their curious nomenclature, these temporary committees on bills are "standing committees"). A similar recommendation was put forward by the Procedure and Organization Committee of the Canadian House of Commons in 1976.

The fundamental principle underlying the recommendation is that bills should come before committees composed of interested and knowledgeable Members and which are capable of reviewing the proposed statute thoroughly and expeditiously.

The Committee wishes to emphasize that the new bills committees would operate in precisely the same fashion as do committees which now study bills, with one important exception: no substitution would be permitted. Since the Committee would have a clearly defined job, the need for substitution should be minimal.

The Committee sees no need for all bills to be referred to standing or select committees as is the practice in Ottawa and Westminster. Many bills of a minor or noncontroversial nature are well handled in Committee of the Whole. Conversely, though, the Committee does believe that the convention (for it is not a rule) that tax

bills are only considered in Committee of the Whole has outlived any usefulness it may once have had. If there is good reason to send a tax bill to committee for review, then it should be done on the same basis as any other piece of legislation.

Finally, the Private Bills Committee should be revived. This Committee was not abolished because it was not working well, although it was too large. Many of these bills deal with matters of substantial importance, yet the current procedure of directing private bills to the appropriate standing committee has meant that they are not always receiving proper scrutiny and that Members are not developing the expertise necessary to deal adequately with private legislation. The new Private Bills Committee should be small, perhaps as few as five or six Members, and its terms of reference should encourage it to review and evaluate the procedures relating to private bills.

Recommendation 3: A separate committee should be struck for each public bill requiring committee stage, except for bills ordered for Committee of the Whole House. These public bill committees would not be substitutable and would terminate once the bill was reported to the House.

Recommendation 4: A small (5-6 Member), non-substitutable Private Bills Committee should be established to review all private legislation. The Committee's terms of reference should include provision for it to evaluate and report on procedures for private bills.

Estimates

In many respects, consideration of Estimates represents the most serious problem of the Ontario committee system, and not only because of the enormous amounts of time they consume.

On the one hand, committee review of estimates provides Members, particularly Opposition Members, with an extended opportunity to engage the Minister and Ministry staff in prolonged discussion to elicit information from them, and to bring their own policy views before the Assembly and the public. Even if the public and the press tend to pay little attention to estimates, Members feel that the policy debates are useful. To judge by the result of the questionnaire on estimates circulated last Spring, Members are unwilling to alter

the existing process substantially without an assurance that they would be able to pursue their policy interests in a similar format.

The fact that Members prefer to spend time allocated to estimates in policy discussions and in raising constituency problems necessarily means that very little time is used for evaluating the dollars set out in the estimates, that is, the spending decisions underlying policy. In turn, this means that financial accountability to Parliament is extremely limited. The Public Accounts Committee fosters accountability, but only by examining past spending to ensure that mistakes are not repeated. No one in Parliament is seriously examining the more than 17 billion dollars of annual public expenditure before it is spent.

The comments of the Lambert Report on the weakness of estimates review in Ottawa apply with equal force to Ontario:

Parliament has long been regarded as the guardian of the public purse. Because of its failure to live up to that expectation, over the past several years, Parliament must accept some share of the blame, along with the Canadian electorate, for the troubles that now beset us ...

The key to Parliament's role as a body to which accountability is owed for the administration of government has always been the need for Parliament's approval of government expenditure and its power to review that expenditure. Parliament's ability to undertake this task, both at the time expenditure is proposed and after it has been made, must be reinforced and improved ... we cannot agree that Parliament and the public are well served by a continued lack of attention to the content of the Estimates and the commitments expressed in them.

Now many Members lack the inclination to scrutinize thoroughly the detailed figures comprising the estimates, yet surely this is no excuse for voting many billions of dollars with only the most cursory evaluation.

In grappling with these very issues, a recent Australian committee report concluded as follows:

There are two lessons to be learned from British and Canadian experience. The function of financial scrutiny should be entrusted to specialist committees, not added to the functions of other committees. Financial committees, if they are to effectively scrutinise public expenditure, should be required to avoid consideration of policy.

After considering several alternatives, the committee has come to agree with this analysis and therefore recommends that a Finance and Economic Affairs Committee be established, to which all estimates would be referred. Since the policy discussions which now characterize estimates debate will be continued in a different forum, to be discussed presently, it should be possible for this committee to concentrate on the financial scrutiny of the estimates. The Committee further proposes that this committee be directed to review Budget papers, major tax legislation, and related matters. Many people, including the Lambert Commission, the Business Council on National Issues and the Tax Legislation Committee of the Canadian Tax Foundation, have argued for such a committee at the federal level. With annual expenditures running at \$17 billion, the need for a committee of the Legislature to review government spending and economic policy is clear.

The work of this Finance and Economic Affairs Committee would be separate from that of the Public Accounts Committee, which would continue to review the Public Accounts and the Report of the Provincial Auditor and to ensure that public money is spent with due regard for economy, effectiveness and efficiency.

In a new departure like this, it will not be possible to indicate precisely what the Finance and Economic Affairs Committee would do, or how it would go about its business. To a certain extent, the Committee would have to determine its own priorities and methods of operation. However, we do wish to present at least an outline of its work. The Finance Committee would not, of course, be able to review all estimates in depth. Instead it would concentrate on a few sets each year, perhaps limiting its scrutiny of the most estimates to votes and items experiencing significant changes from one year to the next. The Committee would also review long term spending projections and economic forecasts, prepared by government and by independent institutes such as the Ontario Economic Council. As well, it would consider all aspects of provincial economic and fiscal policy: the economic implications of the size of the provincial deficit; the relationship of certain expenditure programs to the revenue side of the ledger, for example, the taxes generated (directly and indirectly) by subsidies to particular industries; options available to the province in matters of municipal finances.

As this brief sampling of the Finance Committee's work suggests, its importance would lie not only in enhancing Parliamentary scrutiny over the disposition of public funds, but also in informing Members of the complexities and details of modern public finance.

Although the general topic of committee staffing is discussed below, it is well to point out that even if its Members are eager to look into the statistics of government finance, the Finance Committee could not hope to function without adequate staff assistance.

Recommendation 5: A Finance and Economic Affairs Committee should be established, to which all Estimates would be referred. The Committee would consider only the financial aspects of the estimates, not their policy component. In addition, the Committee would have broad terms of reference to review Ontario's fiscal and economic policies and to study budget papers, financial documents, tax legislation and any related matters.

Policy Review and Special Studies

This section is premised on what appear to the Committee as two fundamental features of the present committee system. First, Members feel it important to be able to discuss government policy in detail. Secondly, one of the great strengths of Ontario's committees has been their conduct of special enquiries, whether in the form of a select committee, a review of a particular aspect of an annual report, or other means.

It is the Committee's proposal that smaller versions of the existing policy field committees be retained to review policy and to mount special studies. The annual reports of ministries and agencies would stand automatically referred to these committees and would serve as their terms of reference. Both the Lambert Report and the White Paper, The Reform of Parliament, made precisely the same recommendation for the automatic referral of annual reports to committee.

In essence, these committees would operate much as they do now, save that the fiction of debating estimates would be eliminated and the committees would not deal with legislation. The provisions of Standing Order 33b, which permit twenty Members to refer an annual report to committee have given the policy field committees virtually unlimited mandates to initiate special studies. Our proposal would ... 16

simply formalize this, while ensuring that resultant special studies did not cause delays in legislation and other business, as often occurs in the existing system. Similarly, as is currently the case, nothing would prevent the House from ordering one of these committees to undertake a particular task.

Lest the policy committees be tempted to devote their attention exclusively to a few special studies, it would probably be advisable to set some requirements that they consider each Ministry for at least a certain number of hours each session. (Again, this is effectively equivalent to current practice). The Committee considered the possibility of reviewing Ministries on a two year cycle, but the responses to the questionnaire indicated substantial opposition to such a proposal.

It is not for this Committee to impose methods of operation for these policy committees, but it does wish to register one suggestion. An excellent way of reviewing, indeed improving, policy would be for the committees to concentrate on one or two programs rather than attempt to deal with the entire range of a Ministry's policy. This procedure, which is strongly endorsed in the Lambert Report, has already been followed with some success by Ontario committees. Among its advantages is the opportunity it provides for the committee to follow up its earlier recommendations. Such follow up is essential if legislative committees are to enjoy effectiveness and credibility as policy watchdogs. To return to an earlier theme, as the Legislature does not govern, so its committees should not be initiating policy, but they should "poke and pry without hindrance into the activities of those who do".

Substitution would be necessary and of minimal detriment for general review of Ministry policy, but for the reasons cited earlier, it should not be permitted when the policy committees are engaged in special enquiries.

It might prove necessary to impose limits on the special studies conducted by the policy field committees, in terms of their duration, and in terms of the number underway at a given time. This would probably best be left until the system had been in operation for some time. In order to distinguish general policy review from special enquiries, the committees would be required to report to the House on

any special studies it was about to undertake, though concurrence of the House would not be necessary.

Recommendation : The four existing policy field committees should be retained, but reduced to approximately half their present size. The annual reports of all ministries and agencies should stand referred to the appropriate committee for study. Each committee would be required to devote a certain number of hours to the review of each Ministry's policy; the precise details would be worked out in same fashion in which the hours for Estimates are now set under Standing Orders 45(b) and 47. Substitution would be permitted for ministry policy review, but not for special studies.

Specialist Committees

By and large, the existing small specialist committees should remain as they are; their broad permissive terms of reference within their own fields should not be changed. The Committee sees no need to alter the operation of the Members Services Committee or the Public Accounts Committee. The work of the Regulations and Other Statutory Instruments Committee needs to be taken more seriously by all Members, but since this Committee is actively considering means of enhancing its effectiveness, it would be premature and inappropriate for us to propose changes to it.

The Committee believes that a separate committee should be established to review the operation of all agencies, boards and commissions to which the Government appoints some or all of the Members. This task is currently performed by the Procedural Affairs Committee, but only because other committees are too overburdened to take on this important work; this is not a job for a committee primarily concerned with reviewing the practices and procedures of the Assembly. The work of the Government Agency Committee would be separate from that of the policy field committees. Its prime function would be the review of agencies for "possible overlapping and redundancy" (the phrase found in the Procedural Affairs Committee's terms of reference) and for possible 'sunsetting'. The policy field committees would be responsible for evaluating the content of the policy, while

the Government Agency Committee would concentrate on administrative rationality, together with the fostering of increased government responsibility and agency accountability. The work of this Committee over the past two years has demonstrated that it is possible, and indeed very beneficial, to maintain this distinction.

After several years of uncertainty, the Select Committee on the Ombudsman seems to have developed a clear role with respect to the Office of the Ombudsman, a role we have no wish to alter. One change, however, does seem desirable. The Camp Commission recommended that the committee on the Ombudsman also deal with public petitions to the Legislature, but no action was taken, so that no adequate mechanism exists for the Assembly to act on petitions. Now it is true that the Ombudsman is available to assist most of the people who feel they have been unjustly treated by the Ontario Government or its agencies, but a certain number of legitimate grievances fall outside the Ombudsman's jurisdiction. We therefore propose that the terms of reference of the Committee on the Ombudsman be expanded to permit it to investigate and report on petitions complaining of personal grievance (but not petitions of a political nature). It is unlikely that more than a handful of such petitions would be made each year, but the Committee feels it important that a mechanism be established to deal with them.

The Ombudsman Committee is best suited to develop procedures for dealing with petitions and for ensuring that only legitimate, personal grievances would be examined.

Recommendation 7 : A Government Agency Committee should be established to review government agencies for overlapping and redundancy and to improve their accountability to the Assembly and to the public. All agencies to which the Government appoints some or all of the members should be subject to review by this Committee.

Recommendation 8 : The Select Committee on the Ombudsman should be empowered to investigate and report on petitions to the Legislature complaining of personal grievance.

Select Committees

To this point, no recommendations have been put forward with respect to select committees. In large measure, this reflects the reality that the dividing line between standing and select committees has become extremely blurred. Names, in short, count for little. If the Assembly continues to believe - as this Committee does - that a committee on the Ombudsman is worthwhile, then let it continue with its current mandate. More generally, nothing in the proposals for restructuring the committee system set out in this report would prevent the Legislature from establishing "special" committees on particular topics - Hydro, the Ombudsman, or anything else - for specified periods of time, or on an indefinite basis. In all likelihood, however, the flexibility of the new committee structure would minimize the need for such ventures.

Staffing

No one will dispute the contention that effective committee work is heavily dependent on staff support. (One U.S. Congressman did remind the Committee that "Moses died leaning on his staff"). The issues are simply too complex, and the competing demands on Members' time too great for committees to function effectively without the research, screening of witnesses, summarizing of testimony and related services that staff can provide.

Having said this, we wish to emphasize that we have no intention of inundating committees with hordes of staff. The word "staff" may of course be singular or plural, and in most cases we would expect a committee's staff to consist of one person (perhaps on a part time basis) in addition to the committee clerk, whose duties are essentially procedural and administrative. It is also important to underline that staff work can supplement the work of the Members, but can never replace it. The onus will, as ever, rest with the Members, staff or no staff.

Although there is room for improvement in current levels of staff support for committees, the Committee is more concerned with the nature of that support and its cost. Too many committees are incurring substantial costs for consultants and counsel when perfectly acceptable alternatives are available for much less than \$75-\$85 an hour. Now the Committee recognizes that on occasion it is desirable to engage specialized, outside assistance for short periods; however, this should

be the exception rather than the rule, as at present.

One increasingly important source of assistance to committees is the Research Service of the Legislative Library. The research officers in this small bureau have already demonstrated that they can offer a broad range of professional services to committees through specific research requests and through long-term and short-term secondments. The Research Service is undergoing a gradual expansion, which will enable it to provide a substantial portion of committees' staff requirements. It is worth noting that the fees paid by one committee for its part-time counsel last year was substantially higher than the total salaries of the four Library Research Officers.

The other direction in which the Committee would propose staffing to move is greater recourse to employment of full-time staff on a contract basis. This Committee and others have met their staff needs in this way, with favourable results.

The Committee further proposes that the provision of research assistance to committees as well as the organization and delivery of support services would be improved by the creation of a Committees Branch within the Office of the Clerk. This would be roughly modelled on the Committees and Private Legislation Branch of the House of Commons. Establishment of a Committee's Branch would essentially require the re-organization of existing services and personnel. Beyond the addition of one or two lawyers and two or three economists for the Finance Committee, the only growth it would occasion would result from greater reliance on contract employees in place of counsel and consultants retained on an hourly or per diem basis.

Committees such as Members' Services and Procedural Affairs would not normally require staff assistance, nor would the policy field committees, except when carrying out special studies. However, the staff pooling arrangements we have suggested would permit sufficient flexibility to deploy staff wherever needed for any period of time, at fairly minimal cost.

Improvements in staffing will improve the effectiveness of committees, yet this is only a partial answer to Members' needs for assistance in their committee work and in all other phases of their activities. The Committee therefore endorses the recommendation of the Morrow Committee that all Private Members provided with individual researchers.

Recommendation 9: A Committee's Branch should be established within the Clerk's Office to provide research and support services for Committees.

Recommendation 10: Only in unusual circumstances should committees engage their own staff. Normally staff assistance will be provided either by the Research Office in the Legislative Library or by the Committees Branch.

Recommendation 11: Each Private Member should be provided with a personal research assistant

Terms of Reference and Committee Powers

The terms of reference under which each committee, or type of committee, would operate have been set out in various other sections of this report, but some general points remain.

First, it would seem advisable to follow the lead of Ottawa, Westminster and other provincial jurisdictions, and incorporate the terms of reference for as many committees as possible into the Standing Orders. This would make the committees' ground rules more accessible to the Members and to the public than is the case with the current practice of appointing committees anew each session (whose terms of reference must therefore be sought in the Votes and Proceedings). The Standing Orders are not, of course, carved in stone, and may be altered by simple majority on a motion with notice, so that it would be no more difficult to amend committees' terms of reference than it is at present.

Since most committee staffing requirements would be met internally through the Library Research Bureau and the Committees Branch, it would not normally be necessary for committees to hire their own staff. In any event, any request for funding for staff would have to come before the Board of Internal Economy for approval (as is the case at present), so that no control would be lost and some clarity gained by including in the committees' terms of reference a blanket authorization to engage staff, subject to the approval of the Board of Internal Economy.

A similar logic applies to travel. All committees currently wishing to travel must have their budgets approved by the Board, so

that it seems redundant to require permission of the House for committees to travel. We therefore agree with the Camp Commission and the Morrow Committee that committees should be free to travel, again subject to the financial approval of the Board of Internal Economy.

The Camp Commission also proposed that committees be free to set their own time of meeting. The Committee believes, however, that the current practice whereby the House determines a schedule of permissible committee meeting times is necessary and has worked well on the whole. The principal object of this device is the minimization of competition for Members' time between the House and its committees, and among committees. The wording of the motion detailing the schedule should therefore permit committees to meet, if they wish, at such "open" times as Monday morning and during the evening dinner hour.

Recommendation 12: The terms of reference should be incorporated into the Standing Orders.

Recommendation 13: The Standing Orders should authorize all committees to hire staff and to adjourn from place to place, subject to financial approval of the Board of Internal Economy.

Subcommittees

Both the Camp Commission on the Legislature and the Morrow Committee recommended that the Legislature make greater use of subcommittees. More frequent recourse to subcommittees is certainly attractive as a means of reducing the time burdens imposed on Members by committee work. Subcommittees also offer a high degree of flexibility. For these reasons, this Committee issued a brief report in May of 1979, recommending that committees delegate more of their work to subcommittees. One of the Committee's hopes was that more frequent use of subcommittees would alleviate the problems of the large policy field committees. By and large, though, this has not occurred. The smaller, less burdened committees proposed in this report will not likely benefit from greater use of subcommittees to the extent that the present system might, but nonetheless they do offer important advantages.

The Standing Orders formally recognize the right of a committee

to strike subcommittees. Several committees have come to rely on steering committees to organize committee business. The Committee is strongly of the opinion that enhanced use of such subcommittees on "Agenda and Procedure" (as they are called in Ottawa) offers substantial savings of committee time, as well as better organized committees. Similarly, subcommittees have occasionally been used to take evidence and to hear public submissions outside the Legislature. The Committee feels that this practice is eminently sensible and should be encouraged whenever possible.

The potential for further uses of subcommittees is great, yet so are the problems they may engender. By way of illustration, the Committee was struck by the tremendous activity of subcommittees in Washington. As notable as the amount of work done by subcommittees, however, was their high degree of independence, to the point where they were frequently not answerable to their 'parent' committees or to the Legislature as a whole. Accordingly, the Committee is convinced of two basic principles which should guide the operation of subcommittees in Ontario. First, it would be a capital mistake to establish a permanent set of subcommittees; subcommittees should be struck for specific purposes only, at the behest of, and for the convenience of, the full committee. Secondly, subcommittees should remain at all times firmly under the control of the full committee, and should not report to the House, employ staff, spend money or take any action except through it. Of course, whatever use is made of subcommittees, the fundamental principle remains that the subcommittee may not consider any matter which has not been properly referred to the full committee, by order of the House, by the Standing Orders, or by legislation.

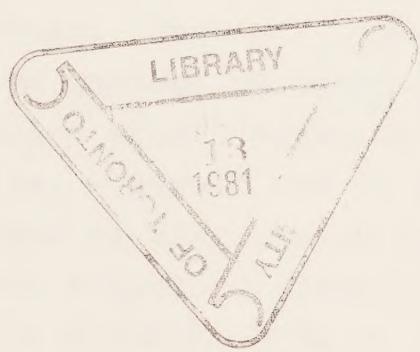
The composition of the subcommittee, and such procedural rules as quorum requirements and the permissibility of substitution on subcommittees are best decided by the full committee. The Committee notes, though, that for a small subcommittee (say 4 Members) a quorum will almost necessarily have to be the total membership of the committee; further, it would recommend that substitution normally be allowed on subcommittees.

Subcommittees might reasonably be permitted to conduct their affairs in a somewhat less formal fashion than the larger full committees. Furthermore, subcommittees could not expect to receive the same range of services enjoyed by full committees - Hansard coverage, for example. Although the Committee feels that a more informal atmosphere stands

as a potential benefit of subcommittee use, it does wish to sound a note of caution: these will be still official bodies of the Assembly and hence must be subject to its rules and procedures. To take but one illustration of the need to observe at least basic formalities: section 37 of The Legislative Assembly Act grants Members privilege in speaking before the House or a committee, but would not likely apply to a group of Members speaking in an informal subcommittee meeting which was not properly constituted.

The Committee is therefore of the opinion that Standing Order 92 should be amended so that subcommittees may only be established by committees by formal motion, setting out membership, quorum, substitution procedure and terms of reference.

Recommendation 14: Committees should make greater use of subcommittees, but Standing Order 92 should be amended to require a committee motion for the striking of a subcommittee. Such a motion would specify the subcommittee's terms of reference, membership, quorum and substitution procedure.



3 1761 11466766 0

